



April 16, 2013

Dear Representative,

On behalf of the more than 150,000 bipartisan members and supporters of the American Association of University Women (AAUW), I write to urge you to oppose the Working Families Flexibility Act (H.R. 1406) in committee markup this week. AAUW is the nation's leading voice promoting equity and education for women and girls. Since our founding in 1881, AAUW members have examined and taken positions on the fundamental issues of the day — educational, social, economic, and political. AAUW is committed to “greater availability of and access to benefits and policies that create a family-friendly workplace environment,” which are critical to women’s “equitable access and advancement in employment.”¹

The past fifty years have seen substantial changes in the composition of the American workforce. Two-thirds (about 64 percent) of women with children under six are in the labor force.² Nationwide, 48.9 million individuals provide care for an adult family member or friend, and more than 70 percent of those care recipients are over the age of 50.³ Unique solutions are necessary to meet the demands of families and the obligations of work. Traditional scheduling and inflexible practices are often detrimental to the balance most employees need. AAUW supports flexible work policies that take many forms including job sharing, telecommuting, and career flexibility. Further, policies such as affording employees greater control over their own work schedules, including start and end times; the right to request schedule adjustments and flexible work policies from their employers; and the right to part-time parity in wages, benefits, and government protections, are important improvements for Congress and the administration to work towards.

The Working Families Flexibility Act

The House Education and Workforce Committee is currently considering the Working Families Flexibility Act (H.R. 1406), which AAUW opposes. The bill claims to offer flexibility to employees by allowing them to convert overtime work into paid time off (comp time) for family responsibilities. There are several major flaws with the legislation:

- Workers who decide to convert their overtime into comp time would still have their requests for time off left entirely to the discretion of their employers. That makes it difficult for employees to use these accumulated days for an emergency, or even to plan for things like parental leave or caregiving leave.
- There is no remedy for employees who request time off and are denied their request, except to be paid out for their accrued time. This does nothing to increase flexibility for that employee. Instead, employees will have worked additional hours without any additional time off.
- Under this proposal, overtime becomes cheaper for employers. Employees effectively “lend” employers their overtime in the hope that they will get it back in the form of time off or by cashing it out eventually but at their regular wage rate.

- Employers are unilaterally permitted to pay out any overtime converted to comp time over 80 hours. This undermines employees' ability to accrue and plan for the responsibilities they need the leave for.
- For female employees in particular, overtime paid at time-and-a-half may be the only way they can add to their earnings to compensate for a persistent gender pay gap. Asking them to choose between the paycheck they need and the flexibility they also need is no choice at all. Employers should be looking for ways to be more flexible in addition to overtime opportunities they already provide.
- **Nothing is currently stopping employers from offering more flexible schedules.** We do not need the problematic Working Families Flexibility Act for employers to implement things like more certainty and predictability in hours and schedule, or to permit employees flexibility.

Policies that Support Working Families

AAUW feels strongly that the Working Families Flexibility Act (H.R. 1406) is not the solution to employees' needs for time off for family responsibilities. To truly support working parents and caregivers, Congress would be better off considering legislation that ensures all employees have access to paid sick days, to Family and Medical Leave, and to pay equity.

Currently, 40 percent of private sector workers⁴ and 43 percent of women working in the private sector lack access to paid sick days.⁵ As a result, half of working mothers report that they must miss work and often go without pay when caring for a sick child.⁶ In addition, the number of Americans who are 75 or older is expected to more than double between 1990 and 2030; by that time, we will have nearly 50 million individuals aged 65 or older.⁷ Currently, 16 percent of Americans 18 years old and older care for a relative who is 50 years old or older. Many of these caregivers are employed – about half work full-time, and 11 percent are employed part-time.⁸ These employees need flexibility to meet the demands of both responsibilities. Without paid sick days, employees often come to work ill, decreasing productivity and infecting coworkers. Or, they must choose between a paycheck and recovering. With passage of the Healthy Families Act (H.R. 1286/S. 631), Congress could change that dynamic for working families. The Working Families Flexibility Act would not address this need at all, requiring preapproval from employers for use of comp time, and allowing employers to reject employees' requests based on business needs.

In addition, only about 59 percent of employees are eligible for the Family and Medical Leave Act (FMLA).⁹ FMLA allows employees time off to recover from a serious health condition, or to provide care to family member in that situation. It also allows parents time off with the arrival of a new child. Lawmakers have discussed a variety of proposals to expand FMLA to cover more Americans and more family and medical needs, as well as to alter the unpaid status of FMLA leave. These are important expansions to FMLA that are necessary to support working families. AAUW also supports adding provisions to FMLA to provide job protection for other important family responsibilities such as parent-teacher conferences, accompanying an adult child or ill sibling on a doctor's visit, as well as to include coverage for victims of domestic violence.

Lastly, the recovery of the American middle class begins and ends with good-paying jobs, but that cannot happen if women continue to earn less than they deserve. For many families with female wage earners, the pay gap has a meaningful impact – one that can't be solved through the additional comp time available in the Working Families Flexibility Act. AAUW's 2012 report, *Graduating to a*

Pay Gap, controlled for factors known to affect earnings such as education and training, parenthood, and hours worked, and found that college-educated women still earn 7 percent less than men just one year out of college – even when they have the same major and occupation as their male counterparts.¹⁰ For these reasons AAUW supports passage of the Paycheck Fairness Act (H.R. 377/S. 84). The Paycheck Fairness Act (H.R. 377/S. 84) takes meaningful steps to create incentives for employers to follow the law, empower women to negotiate for equal pay, and strengthen federal outreach and enforcement efforts. The bill would also deter discrimination by strengthening penalties for equal pay violations and by prohibiting retaliation against workers who inquire about employers' wage practices or disclose their own wages.

The misnamed Working Families Flexibility Act (H.R. 1406) is not an improvement for working families. There is nothing stopping employers from currently offering their employees more flexibility at work. Congress should focus instead on the workplace improvements that employees need, such as ensuring the successful Family and Medical Leave Act covers more people and is paid so that employees can afford to take the leave, ensuring that employees can earn paid sick days by passing the Healthy Families Act, and helping to close the gender wage gap through passage of the Paycheck Fairness Act. If you have any questions, please contact me at 202-785-7720 or Anne Hedgepeth, government relations manager, at 202-785-7724.

Sincerely,



Lisa M. Maatz
Director of Public Policy and Government Relations

¹ American Association of University Women. (June 2011). *2011-13 AAUW Public Policy Program*.

www.aauw.org/act/issue_advocacy/principles_priorities.cfm.

² U.S. Department of Labor, Bureau of Labor Statistics. (2009). *Women in the Labor Force: A Databook*. www.bls.gov/cps/wlftable6.htm.

³ National Alliance for Caregiving and AARP. (2009) *Executive Summary. Caregiving in the U.S.: Findings From the National Caregiver Survey*. www.caregiving.org/data/CaregivingUSAllAgesExecSum.pdf.

⁴ U.S. Department of Labor, Bureau of Labor Statistics. (July 2012). Employee Benefits in the United States: Selected paid leave benefits: Access, National Compensation Survey (Table 6). www.bls.gov/news.release/ebs2.t06.htm.

⁵ Institute for Women's Policy Research. (March 2011). Paid Sick Day Access Rates by Gender and Race/Ethnicity, 2010.

www.iwpr.org/publications/pubs/paid-sick-day-access-rates-by-gender-and-race-ethnicity-2010

⁶ Kaiser Family Foundation. (April 2003). *Women, Work and Family Health: A Balancing Act*. www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14293.

⁷ Ibid.

⁸ National Alliance for Caregiving and AARP. (April 2004). *Executive Summary. Caregiving in the U.S.: Findings from the National Caregiver Survey*. www.caregiving.org/data/04execsumm.pdf.

⁹ Klerman, Jacob, Kelly Daley, and Alyssa Pozniak. 2012. *Family and Medical Leave in 2012: Technical Report*. Cambridge, MA: Abt Associates. www.dol.gov/asp/evaluation/fmla/FMLATechnicalReport.pdf.

¹⁰ AAUW. (2012). *Graduating to a Pay Gap*. www.aauw.org/GraduatingtoPayGap/upload/AAUWGraduatingtoPayGapReport.pdf